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December 3, 2015

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *Notice of ex parte presentations - Hughes Network Systems/ EchoStar Satellite Operating Corporation*
CAF Phase II Competitive Bidding (WC Docket No. 10-90)
Part 25 Reform (IB Docket No. 12-267)

Dear Ms. Dortch:

On December 1 and 2, 2015, Hughes Network Systems and EchoStar Satellite Operating Corporation (Hughes/EchoStar) held meetings with Commissioners and their staffs regarding the above-referenced proceedings. Hughes/EchoStar met separately with staff from the Office of Chairman Tom Wheeler (Diane Cornell, Claude Aiken, and interns Russell Hsiao and Rebecca Weinstein); Commissioner Mignon Clyburn and her staff Louis Peraetz and Rebekah Goodheart; Commissioner Jessica Rosenworcel and her staff Johanna Thomas; Commissioner Ajit Pai and his staff Nicholas Degani; and Commissioner Michael O'Rielly and his staff Erin McGrath and Amy Bender. In the meeting with Commissioner Pai and his staff, Hughes/EchoStar was represented by Paul Gaske, Jennifer Manner, and undersigned counsel. In the meetings with the Office of the Chairman and Commissioners O'Rielly and Clyburn and their staffs, Hughes/EchoStar was represented by Anderson Johnson, Mike Cook, Jennifer Manner, and undersigned counsel. In the meeting with Commissioner Rosenworcel and her staff, Hughes/EchoStar was represented by Mike Cook, Jennifer Manner, and undersigned counsel.

In the meetings, Hughes/EchoStar's presentation followed the attached talking points, which were distributed to the attendees of the meetings.

Please direct any questions regarding this filing to the undersigned.

Sincerely,

/s/
L. Charles Keller

Attachments

cc: Hon. Mignon Clyburn
Hon. Jessica Rosenworcel
Hon. Ajit Pai
Hon. Michael O'Rielly
Diane J. Cornell
Claude Aiken
Louis Peraetz
Rebekah Goodheart
Nicholas Degani
Erin McGrath
Amy Bender
Russell Hsiao
Rebecca Weinstein

Talking Points
FCC Meetings on Connect America Fund (CAF) Phase II
December 1-2, 2015

- One of the Commission's main goals in the creating the Connect America Fund (CAF) was to ensure that funding is used efficiently.
- The National Broadband Plan proposed, and the USF/ICC Transformation Order adopted, an approach that would allow the market to help identify the provider that will serve the area at the lowest cost.
    - The plan for the CAF also has always called for eligibility criteria that are competitively and technologically neutral. This maximizes participation and helps ensure that areas are served by the most efficient providers.
- Hughes has presented evidence that consumers make broadband purchasing decisions based on a variety of factors – speed, capacity, latency, and price are not the only factors that consumers consider.
    - A U.C. Davis research paper about broadband adoption and purchasing decisions demonstrated that a variety of factors, including ease of installation, can be as significant as speed or price in consumers' purchasing decisions.
- No criteria in the CAF Phase II process should establish a specific preference for any particular technology, such as fiber.
    - It would violate the FCC's technology neutrality principle for the FCC to adopt aa bidding category or priority for bidders proposing a fiber-based solution.
    - In addition, such an approach would result in higher costs that would limit the number of American households that would receive service through CAF Phase II.
- The Commission should establish reasonable criteria for evaluating competing bids from different types of providers.
    - Hughes as proposed a point system that appropriately values the relevant factors –
        - Speed
        - Latency
        - Capacity
        - Economic efficiency (subsidy level)
- Hughes has provided an analysis by CostQuest Associates showing the importance of ensuring that the CAF Phase II bidding results in the most efficient support levels possible.
    - There is a very real risk of many locations going unserved if support payments are higher than absolutely necessary.
    - In no event should any bidder be permitted to bid above the model-determined support amount for a given area.

Hughes CAF Phase II Bid Evaluation Proposal

Speed (*25 points*)	30-75 Mbps	25
	18-25 Mbps	20
	12-15 Mbps	15
	6-10 Mbps	10
	1-5 Mbps	5
	<1 Mbps	0
Usage/Capacity (*25 points*)	100 GB	25
	50 GB	20
	20 GB	15
	15 GB	10
	5 GB	5
	<5 GB	0
Latency (*25 points*)	200 ms	25
	800 ms	20
	>800 ms	0
Bid Amount (Efficiency) (*25 points*)	Based on extent to which bid is below model-based reserve, based on actual bids received.	TBD

The FCC's Two-Degree Spacing Policy Must Be Retained to Ensure Efficient Use of the Orbital Resource and Allow Competitive Entry into the Satellite Marketplace

- Two degree spacing facilitates entry by new competitors and existing operators by providing a predictable baseline at which parties can operate prior to completing coordination with their neighbors. Over thirty years of experience demonstrates the success of this policy.
    - Absent the two degree spacing framework, as the FCC has recognized, new entry could be blocked by incumbents indefinitely based on conservative ITU coordination criteria.
    - Nothing has changed in the thirty years since the FCC's two degree spacing policy was adopted; it is still needed to ensure that spectrum is used efficiently and there is vibrant competition in the U.S. satellite market.
    - Yet, the International Bureau staff is proposing changes to the degree spacing policy. A change that would disrupt an effective policy and benefit a former monopoly satellite operator to the detriment to new entrants and other competitors.
- Because Intelsat has numerous, high priority ITU filings across the GSO arc, relying on ITU priority instead of two degree spacing would benefit Intelsat ***at the expense of all other operators*** but particularly new entrants and new satellites.
    - In this case, operators – primarily Intelsat – would have effective veto power over any other operator's new or replacement satellites -- an anti-competitive result.
    - Intelsat's approach would remove the ability for all operators to compete on a fair and common ground, ultimately disadvantaging US consumers.
- Equally concerning is the International Bureau's proposal that would provide special protection to incumbents who claim to have small earth stations in operation even though such operations do not comply with existing two degree separation rules. Under this proposal, these incumbents would be able to block new entrants and other U.S. satellite operators from operating even at the default two degree spacing levels across multiple orbital slots.
- For example, given that Intelsat's numerous ITU filings are among the oldest in the world, Intelsat will likely claim this special protection at virtually every orbital location, affecting the satellites of most other operators serving the U.S. market. The end result of this change would be equivalent to eliminating the FCC's two degree spacing policy altogether.

    - Such a change is completely unjustified, as the existing two degree spacing policy has enabled Intelsat, SES, EchoStar and other parties to successfully deploy and coordinate small-dish operations.

- It is critical to recognize that satellite operators are all serving the same customers. Innovative services, including broadband and aeronautical services, can be provided at two degree spacing today. This is evidenced by the myriad of aeronautical earth station applications the Commission is receiving and granting for satellites two degrees away from other parties. This includes, for example, SES-1 at 101 W.L, two degrees away from Intelsat's Galaxy 16.

- Instead of pursuing approaches that would either directly or effectively do away with a long-standing successful policy -- two degree spacing, the FCC should maintain the policy that has a long-history of facilitating and encouraging competition in the U.S. market, increasing spectrum efficiency and protecting the public interest.

- In order to maintain a robust, functional regulatory regime that allows continued growth and innovation in the satellite industry, the FCC should increase the two degree spacing operating levels to more realistically and accurately correspond with those of modern satellite systems.